

Valuation of Security Assumption of Executory Contract or Unexpired Lease Lien Avoidance

Last revised: November 14, 2023

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEW JERSEYIn Re: Paul DolengoCase No.: 23-20473

Debtor(s)

Judge: Rosemary Gambardella

## Chapter 13 Plan and Motions

 Original Modified/Notice Required Motions Included Modified/No Notice RequiredDate: 03/27/2024THE DEBTOR HAS FILED FOR RELIEF UNDER  
CHAPTER 13 OF THE BANKRUPTCY CODE

## YOUR RIGHTS WILL BE AFFECTED

The Court issued a separate *Notice of the Hearing on Confirmation of Plan*, which contains the date of the confirmation hearing on the Plan proposed by the Debtor. This document is the actual Plan proposed by the Debtor to adjust debts. You should read these papers carefully and discuss them with your attorney. Anyone who wishes to oppose any provision of this Plan or any motion included in it must file a written objection within the time frame stated in the Notice. Your rights may be affected by this plan. Your claim may be reduced, modified, or eliminated. This Plan may be confirmed and become binding, and included motions may be granted without further notice or hearing, unless written objection is filed before the deadline stated in the Notice. The Court may confirm this plan, if there are no timely filed objections, without further notice. See Bankruptcy Rule 3015. If this plan includes motions to avoid or modify a lien, the lien avoidance or modification may take place solely within the Chapter 13 confirmation process. The plan confirmation order alone will avoid or modify the lien. The debtor need not file a separate motion or adversary proceeding to avoid or modify a lien based on value of the collateral or to reduce the interest rate. An affected lien creditor who wishes to contest said treatment must file a timely objection and appear at the confirmation hearing to prosecute same.

The following matters may be of particular importance. Debtors must check one box on each line to state whether the plan includes each of the following items. If an item is checked as "Does Not" or if both boxes are checked, the provision will be ineffective if set out later in the plan.

## THIS PLAN:

DOES  DOES NOT CONTAIN NON-STANDARD PROVISIONS. NON-STANDARD PROVISIONS MUST ALSO BE SET FORTH IN PART 10.

DOES  DOES NOT LIMIT THE AMOUNT OF A SECURED CLAIM BASED SOLELY ON VALUE OF COLLATERAL, WHICH MAY RESULTS IN A PARTIAL PAYMENT OR NO PAYMENT AT ALL TO THE SECURED CREDITOR. SEE MOTIONS SET FORTH IN PART 7, IF ANY, AND SPECIFY:  
 7a /  7b /  7 c.

DOES  DOES NOT AVOID A JUDICIAL LIEN OR NONPOSSESSORY, NONPURCHASE-MONEY SECURITY INTEREST. SEE MOTIONS SET FORTH IN PART 7, IF ANY, AND SPECIFY:  7a /  7b /  7 c.

Initial Debtor(s)' Attorney: KPLInitial Debtor: PDInitial Co-Debtor:  

## Part 1: Payment and Length of Plan

a. The debtor shall pay to the Chapter 13 Trustee \$1,139.00 monthly for 4 months starting on the first of the month following the filing of the petition. (If tier payments are proposed) : and then \$ 150,000.00 per month for 1 months; \$ 2,000.00 per month for 55 months, for a total of 60 months.

b. The debtor shall make plan payments to the Trustee from the following sources:

Future earnings

Other sources of funding (describe source, amount and date when funds are available): Debtor's friend will be providing a lump sum of \$150,000 to be held in counsel's attorney trust account and used to pay real estate tax areas and mortgage arrears on Debtor's primary residence, 263 Boulevard, Pompton Plains, NJ 07444

c. Use of real property to satisfy plan obligations:

Sale of real property

Description: 45 Jackson Ave., Pompton Plains, NJ 07444

Proposed date for completion: April 30, 2024

Sale of real property

Description: 263 Boulevard, Pompton Plains, NJ 07444

Proposed date for completion: June 30, 2024

Refinance of real property:

Description: \_\_\_\_\_

Proposed date for completion: \_\_\_\_\_

Loan modification with respect to mortgage encumbering real property:

Description: \_\_\_\_\_

Proposed date for completion: \_\_\_\_\_

d.  The regular monthly mortgage payment will continue pending the sale, refinance or loan modification. See also Part 4.

If a Creditor filed a claim for arrearages, the arrearages  will /  will not be paid by the Chapter 13 Trustee pending an Order approving sale, refinance, or loan modification of the real property.

e. For debtors filing joint petition:

Debtors propose to have the within Chapter 13 Case jointly administered. If any party objects to joint administration, an objection to confirmation must be timely filed. The objecting party must appear at confirmation to prosecute their objection.

Initial Debtor: \_\_\_\_\_ Initial Co-Debtor: \_\_\_\_\_

#### Part 2: Adequate Protection None

a. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid to the Chapter 13 Trustee and disbursed pre-confirmation to \_\_\_\_\_ (creditor). (Adequate protection payments to be commenced upon order of the Court.)

b. Adequate protection payments will be made in the amount of \$ \_\_\_\_\_ to be paid directly by the debtor(s), pre-confirmation to: \_\_\_\_\_ (creditor).

#### Part 3: Priority Claims (Including Administrative Expenses)

a. All allowed priority claims will be paid in full unless the creditor agrees otherwise:

Name of Creditor	Type of Priority	Amount to be Paid
CHAPTER 13 STANDING TRUSTEE	ADMINISTRATIVE	AS ALLOWED BY STATUTE
ATTORNEY FEE BALANCE	ADMINISTRATIVE	BALANCE DUE: As allowed by fee application
NJSO Tax Liability	507(a)(8)	\$106,617.49
DOMESTIC SUPPORT OBLIGATION		\$0.00

b. Domestic Support Obligations assigned or owed to a governmental unit and paid less than full amount: Check one:

None

The allowed priority claims listed below are based on a domestic support obligation that has been assigned to or is owed to a governmental unit and will be paid less than the full amount of the claim pursuant to 11 U.S.C.1322(a)(4):

Name of Creditor	Type of Priority	Claim Amount	Amount to be Paid

#### Part 4: Secured Claims

a. Curing Default and Maintaining Payments on Principal Residence

NONE

The Debtor shall pay to the Trustee allowed claims for arrearages on monthly obligations and the debtor shall pay directly to the creditor monthly obligations due after the bankruptcy filing as follows:

Name of Creditor	Collateral or Type of Debt (identify property and add street address, if applicable)	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor by Trustee	Regular Monthly Payment Direct to Creditor
				<input type="text"/>	

b. Curing and Maintaining Payments on Non-Principal Residence & other loans or rent arrears:

**NONE**

The Debtor will pay to the Trustee (as part of the Plan) allowed claims for arrearages on monthly obligations and the debtor will pay directly to the creditor (outside the Plan) monthly obligations due after the bankruptcy filing as follows:

Name of Creditor	Collateral or Type of Debt (identify property and add street address, if applicable)	Arrearage	Interest Rate on Arrearage	Amount to be Paid to Creditor by Trustee	Regular Monthly Payment Direct to Creditor

c. Secured claims to be paid in full through the plan which are excluded from 11 U.S.C. 506:

**NONE**

The following claims were either incurred within 910 days before the petition date and are secured by a purchase money security interest in a motor vehicle acquired for the personal use of the debtor(s), or incurred within one year of the petition date and secured by a purchase money security interest in any other thing of value:

Name of Creditor	Collateral (identify property and add street address, if applicable)	Interest Rate	Amount of Claim	Total to be Paid Through the Plan Including Interest Calculation by Trustee

d. Requests for valuation of security, Cram-down, Strip Off & Interest Rate Adjustments

**NONE**

1.) The debtor values collateral as indicated below. If the claim may be modified under Section 1322(b)(2), the secured creditor shall be paid the amount listed as the "Value of the Creditor Interest in Collateral," plus interest as stated. The portion of any allowed claim that exceeds that value shall be treated as an unsecured claim. If a secured claim is identified as having "NO VALUE" it shall be treated as an unsecured claim.

**NOTE: A modification under this Section ALSO REQUIRES the appropriate motion to be filed under Section 7 of the Plan.**

Name of Creditor	Collateral (identify property and add street address, if applicable)	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor Interest in Collateral	Annual Interest Rate	Total Amount to be Paid by Trustee

2.) Where the Debtor retains collateral and completes all Plan payments, payment of the full amount of the allowed secured claim shall discharge the corresponding lien.

e. Surrender

**NONE**

Upon confirmation, the automatic stay is terminated as to surrendered collateral only under 11 U.S.C. 362(a) and that the stay under 11 U.S.C 1301 shall be terminated in all respects. The Debtor surrenders the following collateral:

Name of Creditor	Collateral to be Surrendered (identify property and add street address, if applicable)	Value of Surrendered Collateral	Remaining Unsecured Debt

f. Secured Claims Unaffected by the Plan

**NONE**

The following secured claims are unaffected by the Plan:

Name of Creditor	Collateral (identify property and add street address, if applicable)

g. Secured Claims to be Paid in Full Through the Plan:

**NONE**

Name of Creditor	Collateral (identify property and add street address, if applicable)	Amount	Interest Rate	Total Amount to be Paid through the plan by Trustee
Real Estate tax arrears	263 Boulevard	\$6775.98	0.00%	\$6775.98
Bala Partners LLC	263 Boulevard	\$390.05	0.00%	\$390.05
WSFS C/F Actien Holding Inc.	45 Jackson Avenue	\$4,633.26	0.00%	\$4,633.26

## Part 5: Unsecured Claims

 **NONE**a. **Not separately classified** allowed non-priority unsecured claims shall be paid: Not less than \$ \_\_\_\_\_ to be distributed *pro rata* Not less than \_\_\_\_\_ 00% percent *Pro Rata* distribution from any remaining fundsb. **Separately classified unsecured** claims shall be treated as follows:

Name of Creditor	Basis of Separate Classification	Treatment	Amount to be Paid by Trustee

## Part 6: Executory Contracts and Unexpired Leases

(NOTE: See time limitations set forth in 11 U.S.C. 365(d)(4) that may prevent assumption of non-residential real property leases in this Plan.)

All executory contracts and unexpired leases are rejected, except the following, which are assumed:

Name Creditor	Arrears to be Cured and paid by Trustee	Nature of Contract or Lease	Treatment by Debtor	Post-Petition Payment to be Paid Directly to Creditor by Debtor

Part 7: Motions  **NONE**NOTE: All plans containing motions must be served on all affected creditors, together with local form, *Notice of Chapter 13 Plan Transmittal*, within the time and in the manner set forth in D.N.J. LBR 3015-1. A *Certification of Service* must be filed with the Clerk of Court when the plan and transmittal notice are served.a. **Motion to Avoid Liens Under 11. U.S.C. Section 522(f).**  **NONE**

The Debtor moves to avoid the following liens that impair exemptions: Please see separately filed Motion to Avoid and Reclassify Liens

Name of Creditor	Nature of Collateral (identify property and add street address, if applicable)	Type of Lien	Amount of Lien	Value of Collateral	Amount of Claimed Exemption	Sum of All Other Liens Against the Property	Amount of Lien to be Avoided

b. **Motion to Avoid Liens and Reclassify Claim from Secured to Completely Unsecured.**

The Debtor moves to reclassify the following claims as unsecured and to void liens on collateral consistent with Part 4 above: Please see separately filed Motion to Avoid and Reclassify Liens

Name of Creditor	Collateral (identify property and add street address, if applicable)	Scheduled Debt	Total Collateral Value	Superior Liens	Value of Creditor's Interest in Collateral	Total Amount of Lien to be Reclassified

c. **Motion to Partially Void Liens and Reclassify Underlying Claims as Partially Secured and Partially Unsecured.**  **NONE**

The Debtor moves to reclassify the following claims as partially secured and partially unsecured, and to void liens on collateral consistent with Part 4 above: Please see separately filed Motion to Avoid and Reclassify Liens

Name of Creditor	Collateral (identify property and add street address, if applicable)	Scheduled Debt	Total Collateral Value	Amount to be Deemed Secured	Amount to be Reclassified as Unsecured

d. Where the Debtor retains collateral, upon completion of the Plan and issuance of the Discharge, affected Debtor may take all steps necessary to remove of record any lien or portion of any lien discharged.

**Part 8: Other Plan Provisions****a. Vesting of Property of the Estate**

Upon confirmation  
 Upon discharge

**b. Payment Notices**

Creditors and Lessors provided for in Parts 4, 6 or 7 may continue to mail customary notices or coupons to the Debtor notwithstanding the automatic stay.

**c. Order of Distribution**

The Trustee shall pay allowed claims in the following order:

- 1) Chapter 13 Standing Trustee Fees, upon receipt of funds
- 2) Other Adminisitrative Claims
- 3) Secured Claims
- 4) Lease Arrearages
- 5) Priority Claims
- 6) General Unsecured Claims

**d. Post-Petition Claims**

The Trustee  is,  is not authorized to pay post-petition claims filed pursuant to 11 U.S.C. Section 1305(a) in the amount filed by the post-petition claimant.

**Part 9: Modification  NONE**

**NOTE: Modification of a plan does not require that a separate motion be filed. A modified plan must be served in accordance with D.N.J. LBR 3015-2.**

If this Plan modifies a Plan previously filed in this case, complete the information below.

Date of Plan being Modified: March 19, 2024.

Explain below **why** the plan is being modified:

Debtor will be making a one-time lump sum payment of \$150,000 towards the plan, using funds gifted to him by Lorenza Didario, approval of which is the subject of a separately filed but contemporaneous Motion to Approve Funding, in order to pay all or substantially all of the priority tax claims.

Debtor is continuing the Sale of 45 Jackson pending a resolution of the Wolfson and Foglia claims, as well as the separately filed but contemporaneous Motion to Avoid Liens.

Debtor is also pursuing a sale of his primary residence, 263 Boulevard, which is the subject of an offer and Debtor will be separately filing a Motion to Sell, and which will pay the lien AE&J, the primary mortgage holder, lien in full.

Debtor is also increasing future plan payments because he has newly acquired rental income which increases his regular monthly income by \$2500, which will allow a more fair distribution to unsecured creditors over the life of the Plan.

Explain below **how** the plan is being modified:

Debtor's payments to the Chapter 13 Trustee will increase from \$1,139.00 monthly to \$2000.00 monthly with a lump sum payment of \$150,000.00 in month 5 in order to provide funds for the Trustee to pay the secured creditors all or substantially all that is required to cure the default on his primary residence.

Are Schedules I and J being filed simultaneously with this Modified Plan?  Yes  No

**Part 10: Non-Standard Provision(s):**

Non-Standard Provisions:

NONE

Explain here:

The debtor shall pay to the Chapter 13 Trustee \$1,139.00 monthly for 4 months starting on the first of the month following the filing of the petition. (If tier payments are proposed) : and then \$150,000.00 per month for 1 months; \$2,000.00 per month for 55 months, for a total of 60 months.

Any non-standard provisions placed elsewhere in this plan are ineffective.

The Debtor(s) and the attorney for the Debtor(s), if any, must sign this Plan.

By signing and filing this document, the debtor(s), if not represented by an attorney, or the attorney for the debtor(s) certify that the wording and order of the provisions in this Chapter 13 Plan are identical to Local Form, *Chapter 13 Plan and Motions*.

I certify under penalty of perjury that the above is true.

Date: 03/27/2024

/s/ Paul Dolengo

Debtor

Date:

Date: 03/27/2024

/s/ Karina Lucid

Attorney for the Debtor